

INITIAL STATEMENT OF REASONS  
FOR THE AMENDMENTS OF RULE CHANGES UNDER THE  
THE CALIFORNIA FINANCE LENDERS LAW

As required by Section 11346.2 of the Government Code, the California Corporations Commissioner (Commissioner) sets forth below the reasons for the amendments of Section 1422 and 1423 to Article 2 of Subchapter 6 of Title 10 of the California Code of Regulations (10 C.C.R. Sections 1422 and 1423).

Under the California Finance Lenders Law ("CFLL"), the Department of Corporations ("Department") licenses and regulates finance lenders and brokers conducting business in this state. The CFLL provides that no person shall engage in the business of a finance lender or broker without obtaining a license from the Commissioner. (Financial Code Section 22100.) The CFLL further provides that the application for a finance lender or broker's license shall be in the form and contain the information that the Commissioner may by rule require. (Financial Code Section 22101, subdivision (a).) 10 C.C.R. Sections 1422 contains the Department's "Application for a License Under the California Finance Lenders Law" (Application). This form is used by applicants seeking to become licensed as finance lenders or brokers.

Assembly Bill 1419 (Chapter 196, Statutes of 2005) repealed and added Section 22102. Section 22102 provides that a licensee seeking to engage in business at a new location may do so upon submitting an application to be adopted by the Commissioner at least 10 days before engaging in business at the new location.

The Department's "Short Form Application" (Short Form), for licensees holding one or more licenses seeking to open a new location, is contained in 10 C.C.R. Section 1423.

In addition, Senate Bill 970 (Chapter 470, Statutes of 2003) added Section 11077.1 to the California Penal Code. Section 11077.1 provides that, commencing July 1, 2005, the Department of Justice (DOJ) may only accept fingerprint images and related information to process requests for criminal offender record information for employment, licensing, certification, custodial child placement, or adoption purposes, if those images and related information are electronically transmitted. Therefore, fingerprint cards received by the DOJ after July 1, 2005 will be returned to the submitting agency for resubmission to the DOJ in the required electronic format. The DOJ will no longer accept fingerprint cards unless a specific need has been demonstrated, or the requestor has been granted an exemption from the electronic submission requirement.

This regulatory action proposes to amend the Applications by requiring consistent information from an applicant, regardless of the applicant's form of business, and to clarify the information being requested in the Applications. These amendments will benefit applicants by providing clear and consistent instructions so that the applicants will better understand the information that must be provided. As a result, the Department will benefit from a decrease in processing delays due to incomplete Applications. Further, this action proposes to amend the Applications to conform to the changes resulting from Senate Bill 970.

## Section 1422

The first paragraph requires the applicant to pay for the cost of processing fingerprints. This amendment is necessary to conform to Assembly Bill 502 (Chapter 425, Statutes of 2005) which requires the applicant to submit a full set of fingerprints and related information to the Department, and to pay for the costs of processing the fingerprints.

Information regarding the Department's time periods for processing applications was deleted. This change is needed because the Permit Reform Act which required this information was repealed by Statutes of 2003, Chapter 229 (Assembly Bill 1757).

Item numbers 1 through 6 require all types of applicants to provide similar identifying information about the applicant, and the form and location of the applicant's business, regardless of the organizational structure of the business. These changes are necessary to ensure that the Department receives consistent information about the applicant's business to adequately evaluate the applicant's suitability for licensure.

Instructions to Exhibit C require the applicant to provide the fingerprint information in accordance with California Penal Code Section 11077.1. This change is necessary to conform to the changes resulting from Senate Bill 970 and Assembly Bill 502 as discussed above.

Instructions to Exhibit D require an applicant who applies as an individual, to provide consent to service of process upon the Commissioner for acts of the applicant arising under the CFLL, and to designate a principal agent in California. Existing regulations already require applicants who apply as entities to provide this information to the Department. This change is needed to ensure that the Department receives this same information from all applicants to aid the Department in its enforcement actions.

Instructions to Exhibit E require the applicant to return the specified form to the Department. Because Exhibit E correctly instructs the applicant to return this form to the Department while the instructions to Exhibit E incorrectly directs the applicant to retain it, this change is needed to correct the inconsistency.

Exhibits I and K require an applicant who is applying for a license as an individual or as an "other entity", to sign and date the consent to service of process form. This change is related to the change discussed above in the instructions to Exhibit D and is necessary to obtain consistent information from the applicant, regardless of the organizational structure of the applicant's business. In addition, changes related to format and editing were made to the Acknowledgement section of Exhibits I and K to provide clarity.

Exhibit L is revised to require an applicant to keep and maintain records for 36 months (rather than 24 months) from the date of final entry. This revision conforms to Financial Code Section 22157.

Finally, various minor and nonsubstantive changes related to grammar, editing, and punctuation were made throughout Section 1422. These changes were necessary to ensure a clear understanding of the information required and to conform to the requirements of the English language.

### Section 1423

Subsection (a) provides that a licensee seeking an additional location license should use the form prescribed by this subsection (b). This change is necessary to properly reflect the new subsection (b), which contains the "Short Form Application".

Subsection (b) contains the "Short Form Application". This change is necessary to conform to Assembly Bill 1419 (Chapter 196, Statutes of 2005).

The first section of the "Short Form Application" is being deleted. This change is necessary to avoid collecting information not needed by the Department.

Item number 1 requires the applicant to provide its name and fictitious business name and instructions regarding the use of a fictitious business name. This change is necessary to ensure compliance with Financial Code Section 22102(e) and to avoid the use of unapproved business names.

Item number 3 requires the applicant to provide the name and information regarding the individual in charge of the new location. This change is necessary to ensure that each new location has one person in charge who is knowledgeable regarding CFLL laws and regulations.

Item number 4 requires the applicant to state whether there has been or will be any change in the applicant's plan of business of making or brokering loans or other business. This change is necessary to ensure that applicants provide the Department with the information necessary to determine whether the new location is eligible for the same type of license as the original license.

Item number 6 requires the applicant to provide the Department with the name and contact information of responsible officer or compliance person from the main office of the applicant to be the contact person regarding this application. This change is necessary to ensure that the Department contact a duly authorized representative of the applicant.

The signature block provides that the application must be signed by a person who has a Statement of Identity Questionnaire on file with the Department. This change is necessary to ensure that the person signing the application is an authorized officer of the original licensee.

The Statement for Business Location Outside California requires an applicant whose business location is outside California to choose one of two specified methods of making its books and records available to the Department. This change is necessary

to ensure compliance with Financial Code Section 22106 which requires applicants for business locations outside California to agree, in writing, to one of two choices given for making its books and records available to the Department.

#### ECONOMIC IMPACT GOVERNMENT CODE SECTION 11346.2(B)(4)

The Commissioner has made an initial determination that the proposed regulatory action will not have a significant adverse impact on business.

#### FISCAL IMPACT

Cost to Local Agencies and School Districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.

No other nondiscriminatory cost or savings are imposed on local agencies.

#### DETERMINATION

The Commissioner has made an initial determination that the proposed regulatory action does not have a significant adverse economic impact on business.

#### TECHNICAL STUDIES RELIED UPON

The Department did not rely upon any technical, theoretical, or empirical study, reports, or other similar document in proposing the adoption of this regulation.

#### ALTERNATIVES CONSIDERED

No reasonable alternative considered by the Department or that have otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons, or would lessen any adverse impact on small business.